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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/755,984	01/13/2004	Garrett N. Ford	122142.00009	2249

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EXAMINER

NGUYEN, SON T

ART UNIT PAPER NUMBER

3643

DATE MAILED: 06/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/755,984

**Applicant(s)**

FORD, GARRETT N.

**Examiner**

Son T. Nguyen

**Art Unit**

3643

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2005.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-21 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 13 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1,2,4,5,7-10,12,14-21** are rejected under 35 U.S.C. 102(b) as being anticipated by Glass (4174754).

For claim 1, Glass teaches an article of footwear for an animal comprising: a support (the sole in fig. 3); and an enclosure, said enclosure including wall 13 on said support, and said enclosure further including a pair of tongues 51 (and the flap thereon) each of which is of one piece with the support (see fig. 3) and each of which has a major portion which is pivotable relative to the wall (col. 2, lines 45-50).

For claim 2, Glass teaches wherein said tongues are located diametrically opposite one another (see fig. 2).

For claim 4, Glass teaches the enclosure further comprising at least one band of elastic material 19 connected to one of said tongues and to said wall.

For claim 5, Glass teaches wherein one tongue has a pair of opposed edges and the one band 19 joins one of the edges to the wall means, the enclosure including an additional band of elastic material 19 (on the other side) joining the other of the edges to the wall.

Art Unit: 3643

For claim 7, Glass teaches a protrusion 19 on one of the tongues 51 (when the cord 19 is pulled tight, it will laid against or on the tongues).

For claim 8, Glass teaches wherein the protrusion comprises a strap 19.

For claim 9, Glass teaches wherein the protrusion defines a loop 19 (the cord 19 is a loop).

For claim 10, Glass teaches means 27' for tightening the enclosure around the leg of the animal.

For claim 12, Glass teaches wherein said tightening means comprises a tightening element 19 which engages said enclosure and an operating element 27,48,49 designed to exert a force on said tightening element so as to draw said enclosure around the leg of the animal.

For claim 14, Glass teaches wherein the operating element comprises a rotary mechanism 27' or 49.

For claim 15, Glass teaches wherein the operating element is mounted on the wall.

For claim 16, Glass teaches the operating device is mounted on one of the tongues (the front flap).

For claim 17, Glass teaches wherein the tightening element 19 passes through the wall and is slidable relative thereto.

For claim 18, see claims 1 and 4.

For claim 19, see claim 5.

For claims 20 & 21, Glass teaches the tongue and band are made from different material, the band 19 is a rope material and the tongue is another material.

3. **Claims 1-6,10,18-21** are rejected under 35 U.S.C. 102(b) as being anticipated by Kos (2986823).

For claim 1, Kos teaches an article of footwear that is capable of being used for a hoofed animal, the footwear comprising: a support 13,14 for a leg of the animal and for bearing against the ground; and an enclosure 10 for enclosing at least part of the leg of the animal, said enclosure including wall means 11,12 on said support, and said enclosure further including a pair of tongues (the front and back flaps where refs. 22,23,12,a are pointing at and refs. 30,34,35) each of which is of one piece with the support and each of which has a major portion which is pivotable relative to said wall.

For claim 2, Kos teaches wherein said tongues are located diametrically opposite one another.

For claim 3, Kos teaches wherein said enclosure further comprises at least one band of pleated material (each section 18 or 16) connected to one of said tongues and to said wall means.

For claim 4, Kos teaches the enclosure further comprising at least one band of elastic material 17 connected to one of said tongues and to said wall.

For claim 5, Kos teaches wherein one tongue has a pair of opposed edges and the one band joins one of the edges to the wall means, the enclosure including an additional band of elastic material joining the other of the edges to the wall (see figs. 7 & 8 for close up of how the band 17 connects the tongues together with the wall).

For claim 6, see claim 3.

For claim 10, Kos teaches means 21,20c,17 for tightening the enclosure around the leg of the animal.

For claim 18, see claims 1 & 4.

For claim 19, see claim 5.

For claims 20 & 21, Kos teaches the tongue and band are made from different material, the band 19 is a rope material and the tongue is another material.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 11,13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Glass (as above) in view of Hammerslag (6202953).

Glass is silent about a removable cover for at least part of the tightening means. Hammerslag teaches a tightening means (see fig. 4, all components of ref. 74) for a footwear being covered in a removable cover 60 (removed by unscrewing screws 66 to expose the inside of the housing which contains the tightening means). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a removable cover as taught by Hammerslag in the footwear article of Glass in order to protect the tightening means.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection. However, arguments pertaining to Kos will be addressed herein:

**Applicant argued that Kos does not teach an article of footwear for a hoofed animal.**

The footwear of Kos is capable of being put on a hoofed animal if one wishes to do so for his/her intended use. The structure is there, thus, it's capable of performing the intended function on a hoofed animal. In addition, "for a hoofed animal" is intended use or functional language which is not given weight according to MPEP Section 2114.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


Art Unit: 3643

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 571-272-6889. The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Son T. Nguyen  
Primary Examiner  
Art Unit 3643

stn